

ORIGINAL



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

XUCHUN LIN

121 N Montgomery ST

Valley stream, NY 11580

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

The city of New York

Fire Department of New York

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

CV 22-5851

Complaint for Employment
Discrimination

Case No. _____
(to be filled in by the Clerk's Office)

Jury Trial: ☐ Yes ☒ No
(check one)

DONNELLY, J.

SCANLON, M.J.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>XUCHUN LIN</u>
Street Address	<u>121 N. Montgomery ST</u>
City and County	<u>Valley Stream</u>
State and Zip Code	<u>NY, 11580</u>
Telephone Number	<u>(347) 977-8018</u>
E-mail Address	<u>tigerlxcNY@gmail.com</u>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	<u>The city of New York, Fire Department of New York</u>
Job or Title (if known)	<u></u>
Street Address	<u>100 Church Street, Room 2-316</u>
City and County	<u>New York</u>
State and Zip Code	<u>New York, 10007</u>
Telephone Number	<u>(212) 356-3522</u>
E-mail Address (if known)	<u>erosen@law.nyc.gov</u> <u>(Assistant Corporation Counsel)</u>

Defendant No. 2

Name	<u></u>
Job or Title (if known)	<u></u>
Street Address	<u></u>
City and County	<u></u>

State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known)

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is:

Name Fire Department of New York
Street Address 9 metroTech Center
City and County Brooklyn
State and Zip Code NY, 11201
Telephone Number (718)-999-2000

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (check all that apply):

- ☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐ Other federal law (*specify the federal law*):

☐ Relevant state law (*specify, if known*):

☐ Relevant city or county law (*specify, if known*):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (*check all that apply*):

- ☐ Failure to hire me.
 - ☐ Termination of my employment.
 - ☐ Failure to promote me.
 - ☐ Failure to accommodate my disability.
 - ☐ Unequal terms and conditions of my employment.
 - ☒ Retaliation.
 - ☒ Other acts (*specify*):
-

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

03/05/2021 , 01/10/2022 , 04/04/2022

C. I believe that defendant(s) *(check one)*:

- ☐ is/are still committing these acts against me.
☒ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☐ race _____
☐ color _____
☐ gender/sex _____
☐ religion _____
☐ national origin _____
☐ age. My year of birth is _____. *(Give your year of birth only if you are asserting a claim of age discrimination.)*
☒ disability or perceived disability *(specify disability)*
Mental health disability

- [1] My previous manager in FDNY didn't follow the job contract which consists of two parts: a. salary b. title. She said just for pay not title. The job and supervisor assigned to me were different to the advertisement in the hiring pool.
- [2] On 11/05/2020, the FDNY Bureau of Technology & Development Systems (BTDS) crushed me together by having a supervisory conference against me. The facts are they humiliated me when I argued with them for worse job duties assigned to me (lower than my job title); they retaliated against me after I pointed out substandard practice of system design, they bullied me by providing unworkable working conditions, and stressed me by forcing me to finish work within unreasonable time period.
- [3] The FDNY BTDS didn't allow me to contact colleagues outside of normal work hours. On 03/05/2021, a DC37 Council representative called me and sent me an email to notify me whether I would be interested in receiving a formal written reprimand in order to avoid a discipline hearing and the possibility of more severe discipline because of my 11/06/2020 08:55am call to my supervisor for leave permission. This happened after I filed for disability accommodation on 11/17/2020.
- [4] On 01/10/2022, when I came back to the office, a colleague called me, and I came to him. He told me: (I omitted the manager name) said his Covid19 disease was passed by me, and I was passed by my son. Furthermore, this colleague retaliated against me with a false statement to fail me after my reporting.
- [5] On 04/04/2022, my previous supervisor at FDNY BTDS gave me a performance evaluation result lower than I deserved, took me as the person for project delay, and made the verbal abuse against me in the evaluation report.

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

05/05/2022 (for review), Charge Date (04/01/2022)

- B. The Equal Employment Opportunity Commission *(check one)*:

- ☐ has not issued a Notice of Right to Sue letter.
☒ issued a Notice of Right to Sue letter, which I received on *(date)*

07/08/2022

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

- ☐ 60 days or more have elapsed.
☐ less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

- [1] Revoke the illegal decisions against me done by FDNY Bureau of Technology & Development Systems
- [2] Get the remedy for around seven months' my medical leave in 2021
- [3] Get the remedy for psychological distress damage

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: ^{09/30 (X)}
09/30, 2022

Signature of Plaintiff

Printed Name of Plaintiff

Xuchun Lin
XUCHUN LIN

Contents

1. Form of Notice of Claim

2. Statement Letter

3. Exhibits:

- I. Exhibit A: EEOC "RIGHT TO SUE" Letter
- II. Exhibit B: The doctor letter on my disability after the 03/05/2021 incident
- III. Exhibit C: 11/05/2020 supervisory conference report against me
- IV. Exhibit D: Email notification to me on the written reprimand against me on 03/05/2021
- V. Exhibit E: The rumor that the manager spread against me and the colleague retaliated against me with the false statement to fail me after my reporting
- VI. Exhibit F: My 2021 performance evaluation done by my previous supervisor
- VII. Exhibit G: My 2018 performance evaluation (I have only two evaluations at FDNY in total)
- VIII. Exhibit H: Unworkable platform proof, my email request for help was ignored. No response for two months; the managers withheld information needed to perform my job.
- IX. Exhibit I: Two sides' Position Statement compiled by New York State Division of Human Rights
- X. Exhibit J: EEOC "Notification & Acknowledgement of Dual-Filed" Charge

Additional Exhibit: My previous supervisor stressed me to finish a project within unreasonable time period, while another colleague can't finish the same project using double/triple time

2. Statement

2022

Xuchun Lin
121 N Montgomery St,
Valley Stream, NY 11580

September 28, 2022

Dear Judge,

Thanks for your time to investigate and help with my case.

I have been taking psychotherapy since 09/09/2016. I have the diagnosis of Bipolar II and OCD. I notified my employer (Fire Department of New York City, hereinafter FDNY) on 11/16/2020 and the accommodation was granted.

However, I suffered a series of adverse treatments after the accommodation granting:

- They notified me of a written reprimand against me and threatened more severe disciplinary action[3] on my 8:55am call for leave permission 50 minutes after email request. My call is not wrong at all.
- A manager in my unit spread rumors about me. I got retaliations after my reporting on my suffering.[4]
- My previous supervisor at FDNY BTDS gave me a performance evaluation result lower than I deserved, took me as the person for project delay, and made the verbal abuse against me in the evaluation report.[7]

According to New York State Civil Service Law section 75 and the Equal Employment Opportunity Commission (EEOC) website, the above actions are negative employment actions.

The related event sequences are the following:

1. On 11/05/2020, my working unit (The Bureau of Technology Development and Systems (BTDS)) of New York City Fire Department had a supervisory conference report with me. The subject is Supervisory Counselling: Workplace performance and Behavior.
2. At 8:55am, on 11/06/2020 morning, I made a call to my previous supervisor (Lee, Kira) to request the day and the following week leave.
3. On 11/16/2020, I notified my working unit about my mental health disease. I made a request with the FDNY EEO (Equal Employment Opportunity) unit for the disability accommodation on 11/17/2020. I got approved.

2022

4. On 03/05/2021, I got a call from a DC37 representative to notify me whether I would be interested in receiving a formal written reprimand in order to avoid a discipline hearing and the possibility of more severe discipline because of my 11/06/2020 08:55am call to my previous supervisor for leave permission. He sent the related email after the call.
5. On 01/10/2022, I reported to FDNY Human Resource that a computer system manager in my unit spread the rumor against me by stating I spread the COVID19 to the other colleague. On 01/18/2022, this manager came to me to ask about my family health situation.
6. On 04/04/2022, my previous supervisor (Lee, Kira) gave me the lower evaluation I deserved, and took me as the person to delay the project; she also made the verbal abuse against me in the evaluation report.

I had the upset and loud voice when I was upset and not calm down -> The managers disliked my upset voice[1], they distanced and excluded me -> I was more anxious to demonstrate myself and more rush to point out problems -> they disliked me more, had more and more biases, suppressed me more, distorted and uglified my behaviors, their words were inflammatory against me -> I had more arguments -> they hurt me after they felt I was continued antagonism ...

The following are the negative actions from my previous manager against me

- The managers withheld information needed to perform my job[2];
- The managers retaliated me with written reprimand after my requesting reasonable accommodation for disability (although the accommodation was granted)[3];
- The manager spread rumors about me[4];
- The manager made offensive comments against me[5];
- The manager treated me less well than others in terms of privileges, stressed me to finish a project in unreasonable timeframe with problematic work conditions[6]; The manager denied to assign a formal project to me after my coming back from medical leave, instead, she assigned the research works that other colleagues didn't know how to do or didn't have time to research, less favorable work opportunities;
- The manager gave me the lower evaluation I deserved, and took me as the person to delay the project [7];

I became fully disabled [8] because of the 03/05/2021 incident shock and after more than half year stress work on the problematic platform (The manager assigned the same project to another colleagues, they didn't finish in double, triple time and the colleague didn't receive negative performance evaluation). Around seven months of medical leave is a big economic loss resulting from the managers' materially adverse actions.

New York State Division of Human Rights (hereinafter NYDHR) stated on "Determination and Order After Investigation" for my case(Case No. 10212968): The complainant failed to establish a prima facie complaint of discrimination as he has not shown suffered an adverse employment action. He remains employed and has experienced no effect to his title, salary or benefits.

Actually, "failed to establish a complaint" doesn't mean I didn't suffer the discrimination. I am a humble person compared with FDNY, a big organization which has lots of professional attorneys. NYDHR didn't make the further investigation why I made the arguments:

- I made the argument for the good purpose of the department, the practice on my unit should follow the industry standard, the related staffs should have qualifications required
- My legal rights had been violated by the managers. They provided problematic and unworkable working conditions

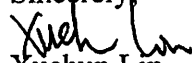
The position statement [9] from FDNY has lots of offensive comments against me:

1. It stated "(I) discredited the colleague"
 - I just pointed out the problems straight forward, voiced the concern.
2. It stated "(I) refused to accept appropriate supervision"
 - This is the verbal abuse, my previous manager refused to have a session with me
 - a. I tried my best to write the daily report every day
 - b. I worked and fixed issues one by one required by team members
3. It stated "(My) behavior is destructive and abrasiveness to the team"
 - I provided some constructive suggestion to the team to follow the industry standard
4. It stated "I continues to disrespect team members, diminish their efforts and challenges Director Lee's assignment"
 - I thanked to the team members' help
 - I pointed out the existing design problems and complemented Director Lee's statement according to my best knowledge (For example, project start time was not correct, she said April 2020, I said it is June 2020... I requested the explanation and help on the working server, she withheld the information for a couple of months)
5. It stated "they not authorized (me) to call their personal cell phone, especially outside the normal work hour"
 - This is unlawful restraint, they took away my fundamental rights For example, in

emergency ... And the personal cell phone call is the only choice for communication for remote work besides email according to my understanding. Actually, a colleague called my personal cell phone at later Friday evening (after 10pm), Saturday, Sunday ...

The words from them to explain why they treated me differently are totally pretexts. The motivation on the managers' actions against me is to deny my work privilege: Supervisory conference -> Written reprimand -> Disciplinary Actions -> Termination[10]

According to the federal law: Americans with Disabilities Act (ADA), Title I Employment and Title II (State and Local Government) Nondiscrimination on the Basis of Disability in State and Local Government Services, my employer has violated this regulation; the above event sequences on my sufferings have shown clearly, I hope I can finally get the fair treatment.

Sincerely,

 Xuchun Lin

References:

- [1] Exhibit C: 11/05/2020 supervisory conference report against me (Page 2 Issue 1)
- [2] Exhibit H: Unworkable platform proof, my email request for help was ignored. No response for two months; The managers withheld information needed to perform my job.
- [3] Exhibit D: email notifying me on the written reprimand against me on 03/05/2021
- [4] Exhibit E: The rumor that the manager spread against me and the colleague retaliated against me with the false statement to fail me after my reporting
- [5] Exhibit C and Exhibit F
- [6] Exhibit H: Unworkable platform proof, my email request for help was ignored. No response for two months; The managers withheld information needed to perform my job.
- [7] Exhibit F: My 2021 performance evaluation done by previous supervisor
- [8] Exhibit B: The doctor letter on my disability after the 03/05/2021 incident
- [9] Exhibit I: Two sides' Position Statement compiled by New York State Division of Human Rights
- [10] New York State Civil Service Law section 75
http://www.ongov.net/employment/documents/manual_of_procedures_in_disciplinary_actions_04_08.pdf

I. Exhibit A



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office
33 Whitehall St, 5th Floor
New York, NY 10004
(929) 506-5270
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 07/08/2022

To: Xuchun Lin
121 N Montgomery Street
Valley Stream, NY 11580
Charge No: 16G-2021-02467

EEOC Representative and email: Holly Shabazz
S/L Program Manager
Holly.Shabazz@EEOC.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated your charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission,

Digitally Signed By: Judy Keenan
07/08/2022

Judy Keenan
District Director

Cc:

City of New York Fire Dept.
Eeo Unit
9 Metro Tech Center 4th Floor
Brooklyn, NY 11201

Please retain this notice for your records.

II. Exhibit B

Yuanxia Zhang, Ph.D.

NYS Licensed Psychologist (NYS# 015344)
43-18 Robinson, St, Apt 1A, Flushing, NY 11355
(Phone) 718-666-7176, (Fax) 718-358-7442

06/15/2021

RE: Xuchun Lin (DOB: 10/02/1974)
WCB Case No: G3006097

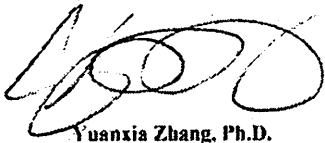
To Whom It May Concern:

Mr. Xuchun Lin has been taking psychotherapy in this office since 09/09/2016. He has the diagnosis of Bipolar II and OCD.

Recently, he had an incident on 03/05/2021. he has lost control of his mood, kept feeling angry. On 03/29/2021, he came to take psychotherapy to treat his unstable mood and anger. Based on his unstable mental status, he needs to take half a year off (From 04/05/2021 to 10/01/2021) to stabilize his mood and resume his mental strength. Now he is fully disabled and cannot go back to work due to his anger and unstable mood.

If you have any further questions, please let me know.

Yours Sincerely



Yuanxia Zhang, Ph.D.

YUANXIA ZHANG, Ph.D.
NYS PSYCHOLOGIST (LIC: 015344)
43-18 ROBINSON ST., STE. 1A
FLUSHING, NY 11355
(O) 718-666-7176 (FAX) 718-358-7442



BUREAU OF TECHNOLOGY DEVELOPMENT AND SYSTEMS

**9 METROTECH CENTER – BROOKLYN, NY 11201
(718) 999-1782**



SUPERVISORY CONFERENCE REPORT

To: XUCHUN LIN
Computer Specialist SW LIV

From: Thomas Dowling
Deputy CIO, IT Administration

Kamal Deol
Deputy CIO, Applications Development

Date: November 5, 2020

Subject: **Supervisory Counseling: Workplace Performance and Behavior**

On November 5, 2020, at 2:30pm, a supervisory conference will be held with the following BTDS personnel in attendance:

Thomas Dowling, Deputy CIO, IT Administration
Kamaldeep Deol, Deputy CIO, Applications
Yingyu Lee, Deputy Director, Applications
Margie Dominguez, Deputy Director, HR Liaison

During this conference, the following issues will be presented:

- The following violation of the rules in the Civilian Code of Conduct.
- Unprofessional and unacceptable behavior with other team members.
- Unsatisfactory work performance
- Interactions with co-workers are sometimes perceived by them as inappropriate and causes them to be uncomfortable.
- Failure to follow the direction provided by your management team.
- We are here to communicate directly on what corrective actions are necessary to improve performance, level set our shared expectations for proper workplace behavior.

What are the main issues?

- 1) You have attempted to engage your management team in loud verbal discussions during meetings, even when you were advised not to do so. These discussions, if there are opposing views, must be conducted within the manager's office in a tone appropriate for the workplace.
 - June 18, 2020- @ 2:10 Your Deputy Director (Kira Lee) conducted a Go To Meeting to discuss PCARD in APEX with the following staff members: Xuchun Lin, Xueliang Fang, Steven Karchencko, Shizhong Liu
 - At the PCAD in APEX meeting, you interrupted her during the opening statement explaining the project scope and requirements. Kira politely asked you to let her finish and suggested you to keep his comments for later. As she started to explain assignments and responsibilities to each team member, you interrupted her again when she said all backend packages/store procedures would come from Steve. She stopped you again and made it clear to the team that Steve has been the backend developer for this project and he will continue be the back end developer, and you will work on the front end only. You got upset and raised your voice and started saying "how BTDS is doing things wrong and you will change this major issue in BTDS." You interrupted Kira few more times after that. You were then given a warning that if you cannot follow a direction, you will be removed out of the meeting. At the end of that meeting, Kira directed Frank to provide all documentation with user guide, which was sent to you by email.
 - *Civilian Code of Conduct 5.2 - Comply with supervisory instructions.*
 - *Civilian Code of Conduct Section 6.5 - Engage in conduct that is disruptive or is reasonably expected to be disruptive of the workplace or agency operations.*
- 2) You were advised multiple times before, in project meetings and in email communications to please discuss with the team (Frank and Steve) for any backend change request. All backend (DB) changes needed will be handled by Steven Kharchencko once all agree.
 - July 15, 2020 @10:30- you notified Kira that you just had a conference meeting with Steven and Frank. However, during that conference, Steven stated that you demonstrated and explained proposed schema design. It is significantly different to what the team currently have and most of changes is just different way to design. You insisted that it would be easier and faster for you to completely rewrite code rather than analyze and make corrections to the existing code. If the team started the project from scratch, this major redesign requires complete rewriting of the existing stored procedures and

reports. The team will have to allocate significantly more time for complete regression testing, including QA.

- *Civilian Code of Conduct Section 5.3 - Comply with the requirements of work assignments.*

- 3) You were given clear instructions on your role in the project many times; in team meetings and in email communications. However, instead of following those instructions, you continue to be condescending, rude and disrespectful to others.

You constantly challenge the Project Lead and Applications Architect even though they have done nothing but try to help you. Your failure to perform your assigned duties and responsibilities and your continued disregard to direct orders has disrupted the unit's operations.

- September 11, 2020 @ 12:14 pm-Bo Chen stated that the meeting on September 10th did not go very smooth. The first 10 minutes and last 10 minutes of the meeting, you had mix issues. You tried to demo your progress but kept going back/forth between your app and the old app that the team couldn't really get time to view his work. You also complained that the mockup made it difficult for you and that you had spent a day on adding the comment count-. You were trying to ask Steven for a query on user roles--which the team weren't entirely sure what you were looking for at the time.

- *Civilian Code of Conduct Section 6.2-Perform assigned duties improperly or inefficiently, or neglect or refuse to perform duties.*

- 4) You have interacted with Xueliang on multiple cases/scenarios that you don't show respect to following instructions from him or Naresh. You made unnecessary public remarks:

- September 14, 2020 @ 2:28 pm – You accused Naresh that he didn't provide information– which was found to be inaccurate. Naresh continued to request detailed requirements, which you did not provide. You followed up with an email to him stating, "If you provide this thing at the first email, we could save lots of efforts." In fact, you were asked on multiple occasions to provide the required detail.
- September 14, 2020 @ 3:43pm -In your email to your project leader, you stated, "...you are playing games..." then you went on in the next email, after your project lead provided you the information, you stated," Those

information are not well described enough. Let us move on.” Your approach was inappropriate and not conducive to a team centric effort.

You continued on an effort to discredit team members by stating in a separate email to Kira, “I think the information on Naresh email is not adequate enough. Xueliang is half year earlier than me to enter this area, he should have better ideas and know various constraints on BTDS. “In another email, you stated that “ I found Fang is not helpful. What he did is not helpful on project progress.” You were counseled by supervision that your approach with other team members is inappropriate and not conducive to a productive working environment. However, you continue to not follow directions, you continue to be disrespectful and argumentative with your supervisors and team members.

- *Civilian Code of Conduct 6.5 - Engage in conduct that is disruptive or is reasonably expected to be disruptive of the workplace or agency operations.*

5) Again, you were advised by your Deputy Director (Kira) to focus on UI while the project leader tries to work with Application Architect to come up with the project implementation plan. Your Deputy Director went on to advised to provide all necessary detail to Naresh. Naresh has made several attempts to secure that detail from you but has been unsuccessful. Even though you have failed to supply Naresh with the required information, you continue to discredit his abilities and role assigned on the project.

- *Civilian Code of Conduct 5.3- Comply with the requirements of work assignments.*
- *Civilian Code of Conduct 6.7-. Engage in conduct prejudicial to the good order, efficiency and discipline of the FDNY.*

The following steps need to be taken to correct your behavior and performance in the workplace environment.

1. Follow management and supervision’s direction. If you do not agree with a decision, you can escalate it up the chain of command in an appropriate manner.
2. An argumentative approach is neither warranted nor acceptable in the workplace.
3. You are to follow the technical guidance provided by other staffing resources as directed by supervision.
4. Project prioritization are solely at the discretion of the management in order to address changing constraints and conditions. All team members must seek guidance

from management before changing the scope of any project. Understand and be sensitive that there are a multitude of resources who have expended a great deal of effort ensuring the success of the bureau's efforts. Do not diminish those efforts with self-proclamations.

5. You are mandated to follow change management procedures when dealing with the department's production environments.
6. Respect your team members.

I trust, if you follow these guidelines, we can be more successful in our efforts in supporting the Department's mission in saving lives and protecting property. Your failure to perform your assigned duties and responsibilities and your continued disregard to direct orders and current workplace policies has disrupted the unit's operations. Please make every effort to rectify these issues. Further reoccurrence of this conduct may necessitate appropriate disciplinary action against you.

EMPLOYEE'S STATEMENT: My signature below indicates only that this supervisory conference has been discussed with me, and that I have received a copy of this supervisory conference on this date. This does not necessarily indicate my agreement with the contents of this supervisory conference. I understand that I have a right to submit a written response to this supervisory conference (which will be inserted in my file).

Employee Signature	Employee Name	Employee Title	Date
Supervisor Signature	Supervisor Name	Supervisor Title	Date
HR Liaison Signature	HR Liaison Name	HR Liaison Title	Date

IV. Exhibit 2

From: McCabe, Daniel <DMcCabe@DC37.NET><mailto:DMcCabe@DC37.NET><mailto:DMcCabe@DC37.NET><mailto:DMcCabe@DC37.NET>>>

Sent: Friday, March 5, 2021 10:59:22 AM

To: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov><mailto:Xuchun.Lin@fdny.nyc.gov><mailto:Xuchun.Lin@fdny.nyc.gov><mailto:Xuchun.Lin@fdny.nyc.gov>>>

Subject: FDNY Disciplinary matter

Hi Mr. Lin,

This is to serve as a summary of our previous discussions.

I reported that the FDNY had contacted DC37 inquiring if you would be interested in receiving a formal written reprimand in order to avoid a disciplinary hearing and the possibility of more severe discipline. The reprimand concerns the allegation that after being warned in a supervisory conference (held 11/5/20) to not contact your supervisors outside of work hours, you proceeded to contact your supervisor outside of work hours the following morning.

During our discussion, you maintained you did nothing wrong. You only contacted your supervisor at the start of business hours to determine if an unanswered leave request that was to begin that day was approved. You rejected the offer of a formal written reprimand and are aware that the FDNY will proceed with a disciplinary hearing.

I will notify the FDNY of the rejection of their offer. Please contact me if this is not your understanding of our conversation.

Yours,

Dan McCabe

Council Representative

DC 37

646.946.9057

word version by me for better visual effect

From: McCabe, Daniel

<DMcCabe@DC37.NET<<mailto:DMcCabe@DC37.NET>><<mailto:DMcCabe@DC37.NET><<mailto:DMcCabe@DC37.NET>>>>

Sent: Friday, March 5, 2021 10:59:22 AM

To: Lin, Xuchun (FDNY)

<Xuchun.Lin@fdny.nyc.gov<<mailto:Xuchun.Lin@fdny.nyc.gov>><<mailto:Xuchun.Lin@fdny.nyc.gov>>>>

Subject: FDNY Disciplinary matter

Hi Mr. Lin,

This is to serve as a summary of our previous discussions.

I reported that the FDNY had contacted DC37 inquiring if you would be interested in receiving a formal written reprimand in order to avoid a disciplinary hearing and the possibility of more severe discipline. The reprimand concerns the allegation that after being warned in a supervisory conference (held 11/5/20) to not contact your supervisors outside of work hours, you proceeded to contact your supervisor outside of work hours the following morning.

During our discussion, you maintained you did nothing wrong. You only contacted your supervisor at the start of business hours to determine if an unanswered leave request that was to begin that day was approved. You rejected the offer of a formal written reprimand and are aware that the FDNY will proceed with a disciplinary hearing.

I will notify the FDNY of the rejection of their offer. Please contact me if this is not your understanding of our conversation.

Yours,

Dan McCabe

Council Representative

DC 37

646.946.9057

From: Covid19 HR (FDNY) <Covid19HR@fdny.nyc.gov>
Sent: Monday, January 10, 2022 4:57 PM
To: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>; Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Deol, Kamaldeep (FDNY) <Kamaldeep.Deol@fdny.nyc.gov>
Cc: Greene, Cacharel (FDNY) <Cacharel.Greene@fdny.nyc.gov>; Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>
Subject: RE: Groundless points on me related to Covid-19

An employee's confidential health status should not be discussed, let alone by managers with other line employees. Any COVID-related concerns should be addressed to COVID19HR and no one else. This is a serious issue and we will look into it.

From: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>
Sent: Monday, January 10, 2022 4:17 PM
To: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Deol, Kamaldeep (FDNY) <Kamaldeep.Deol@fdny.nyc.gov>
Cc: Covid19 HR (FDNY) <Covid19HR@fdny.nyc.gov>; Greene, Cacharel (FDNY) <Cacharel.Greene@fdny.nyc.gov>; Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>
Subject: RE: Groundless points on me related to Covid-19

→Covid19 HR (FDNY)

From: Lin, Xuchun (FDNY)
Sent: Monday, January 10, 2022 4:12 PM
To: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Deol, Kamaldeep (FDNY) <Kamaldeep.Deol@fdny.nyc.gov>
Cc: Greene, Cacharel (FDNY) <Cacharel.Greene@fdny.nyc.gov>; Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>
Subject: Groundless points on me related to Covid-19

Dear Officers,

This morning, when I came back to office, [REDACTED] called me, and I came to him. [REDACTED] told me: [REDACTED] said his Covid19 disease was passed by me, and I was passed by my son (because my son came back from Florida on (12/15/2021).

Actually, I was tested Covid19 positive by rapid test on 12/20/2021, my son was tested negative on 12/21/2021, he was tested positive on 12/31/2021.

So my son is not the source.

[REDACTED] words/behaviors are not right:

1. How could she make the groundless points and spread among the colleagues?
2. How did she know my covid19 disease?

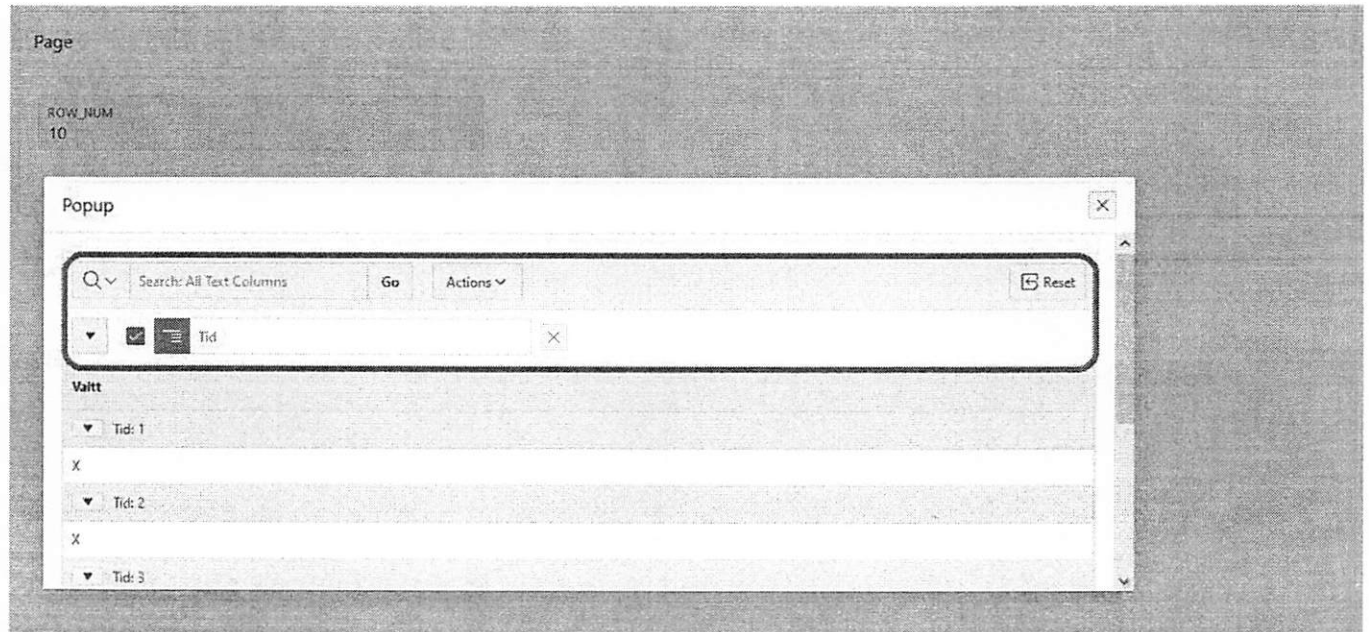
Please help me on these issues.

Thanks,
Xuchun Lin

From: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>
 Sent: Wednesday, February 02, 2022 8:30 AM
 To: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>; Kaur, Sukhi (FDNY) <Sukhdeep.Kaur@fdny.nyc.gov>
 Cc: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Deol, Kamaldeep (FDNY) <Kamaldeep.Deol@fdny.nyc.gov>
 Subject: RE: Screenshots on popup dialogue resizing application

Sukhi,

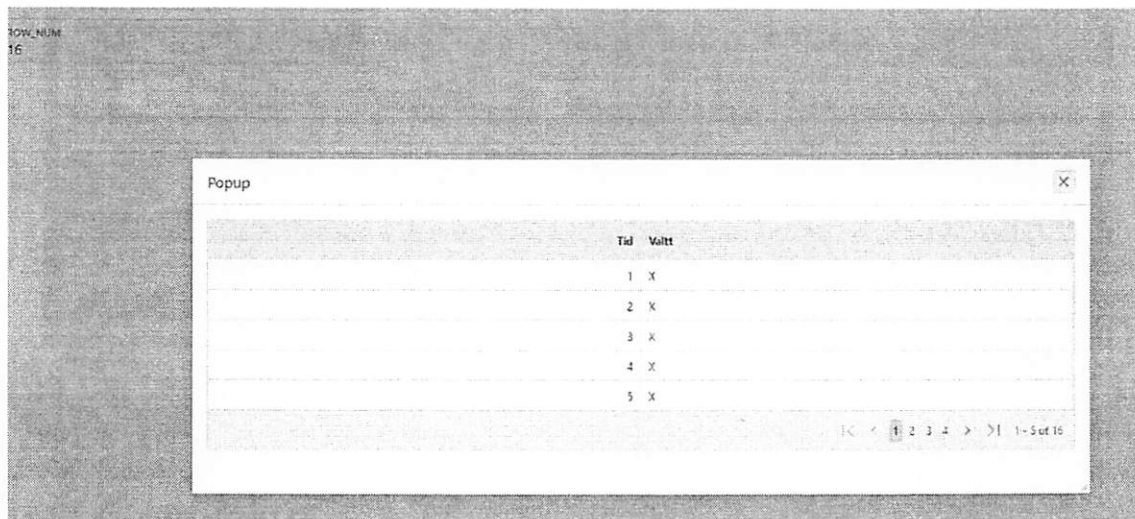
Please see below screen i tested using the url Xuchun provided. It is not meet the requirement at all.



The above is sent by the colleague, comparing to the below part sent by me, the red part was added through changing the application. The end user can't do that. This change need to be done by the changing application.

From: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>
 Sent: Monday, January 31, 2022 10:21 AM
 To: Kaur, Sukhi (FDNY) <Sukhdeep.Kaur@fdny.nyc.gov>
 Cc: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>; Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Deol, Kamaldeep (FDNY) <Kamaldeep.Deol@fdny.nyc.gov>
 Subject: Screenshots on popup dialogue resizing application

Dynamically:



VI. Exhibit F

Performance Document - NYC Standard Performance Doc

Tasks and Standards/Performance Evaluation

Employee: Xuchun Lin
Civil Service Title: COMPUTER SPECIALIST (SOFTWARE)
Title Level: 04
Civil Service Status: Permanent - Competitive
Business Title: COMPUTER SPECIALIST (SOFTWARE)
Dept ID: 0577520 Bureau of Tech Deve and Syst
Work Location ID: 1617 9 Metrotech Center, Brooklyn N
Status: Pending Acknowledgement

Empl ID: 1110201
Title Entry Date: 11/09/2009
Period: 01/01/2021 - 12/31/2021
Supervisor: YINGYU LEE
Document ID: 184272
Document Type: NYC Standard Performance Doc
Template: NYC Non-Mgr Perf Eval - Emp

Section 1 - Instructions

Tasks and Standards

Description :Tasks and Standards (T&S) provide a clear roadmap on the performance expectations on which you will be evaluated on an ongoing basis. Instructions: 1. Your supervisor will discuss T&S with you at the beginning of the evaluation period. 2. The T&S will be sent to you electronically for acknowledgement. 3. You will have access to review and/or print the final document at any time via Employee Self-Service.

Created By : Template

Performance Evaluations

Description :The performance evaluation document is used by supervisors to review employee's performance based on the job description, tasks and standards, attendance/punctuality (not including protected leaves such as FMLA leave, childcare leave, workers compensation leave, etc.), and other factors applicable to the job. This enables supervisors and employees to discuss employee's areas of strength, areas for improvement, and identify areas of development for employee's job and professional growth. Instructions: 1. At the end of the evaluation period, your supervisor will discuss and send the performance document to you electronically for review and acknowledgement, at which point you may record your comments on the evaluation form. 2. The performance document will be completed and finalized by your supervisor. 3. You have the ability to submit an appeal based on your agency's appeals process (contact your HR office for additional information). 4. You will have access to review and/or print the final document at any time via Employee Self-Service

Created By : Template

Section 2 - Tasks and Standards

Application Design

Description :1. Create and present realistic prototypes of the application 2. Define the logic and flow of an application based on the design specifications. 3. Review the design with the end users to ensure that it thoroughly meets all requirements. the end users to ensure that it thoroughly meets all requirements.

Supervisor Rating: 1-Unsatisfactory 1.00

Supervisor Comments: Xuchun has been assigned several different projects including PCARD and APEX POCs. For the PCARD project, he had been instructed to follow the design as laid out by the project leads. Despite repeated reminders, he didn't follow instructions and kept attempting to change the design to something that was less optimal than the original.

Created By : Template

Last Modified By : YINGYU LEE

03/09/2022 5:13PM

Application programming/building

Description :a. Accurately interpret program specifications and carry out programming tasks in a timely manner b. Able to perform complex programming following best programming standards c. Thoroughly test all aspects of development to ensure that products provided are as bug free d. Make self-available to help with any problems or issues that may arise

Supervisor Rating: 1-Unsatisfactory 1.00

Supervisor Comments: For the PCARD project, his programming work was completely unsatisfactory and unusable. as a result, the project got significantly delayed and couldn't be completed on time. It had to be re-assigned to other programmers. For the APEX POCs, he was unable to correctly understand the requirements or follow instructions given to him by the project lead, Despite repeated discussions, he kept disputing the requirements. as a result, out of the 5 POCs that were assigned to him, he managed to complete only one which was only 2-3 lines JavaScript.

Created By : Template

Last Modified By : YINGYU LEE

Lead role in web application development and developers

Description :a. Should participate in all phases of the system development life cycle including performing systems analysis, requirement definition, database design, preparation of scope of work, and project plans. b. Should have the ability to prepare technical specifications and perform the necessary programming tasks for applications development. c. Projects will involve the design, development, implementation and support of complex Oracle based applications using Oracle Development tools. d. Well communicate with supervisor/project manager on project status or issues that arise.

Supervisor Rating: 0-Unratable 0.00

Supervisor Comments: Not applicable. He wasn't assigned any lead role in application or project during the evaluation period.

Created By : Template

Last Modified By : YINGYU LEE

Application Maintenance

Description :a. Adequately document all changes and modifications b. Debug/resolve application problems for end users and/or other business units c. Meet with users to clearly identify problems or required modifications or enhancements

Supervisor Rating: 0-Unratable 0.00

Supervisor Comments: Not applicable since he didn't have any applications in production maintenance.

Created By : Template

Last Modified By : YINGYU LEE

Task#5

Description :

Supervisor Rating: 0-Unratable 0.00

Supervisor Comments:

Created By : Template

Task#6

Description :

Supervisor Rating: 0-Unratable 0.00

Supervisor Comments:

Created By : Template

Tasks and Standards Summary

Supervisor Rating: 1-Unsatisfactory

1.00

Section 3 - Attendance/Punctuality

Attendance/Punctuality

Description :How was Employee's Attendance/Punctuality during the entire Evaluation Period?

Supervisor Rating: Satisfactory

Created By : Template

Attendance/Punctuality Summary

Supervisor Comments:

Section 4 - Other Factors

Other Factors Summary

Supervisor Comments: Xuchun was on medical leave for 6 months from 4/5/2021 to 10/1/2021. The evaluation has been conducted for the period around that.

Section 5 - Justify Overall Rating

Justify Overall Rating Summary

Supervisor Rating: 1-Unsatisfactory

Supervisor Comments: Xuchun's overall performance has been unsatisfactory. As per the project lead who worked with him, here's the feedback on his performance and behavior: - Development process extremely slow - Difficulty understanding requirements - Implementations were superficial and deceptive - Code has side effects - Requires extensive guidance - No cooperative in the teamwork execution - Disrespectful to other coworkers and none professional manner

Section 6 - Acknowledgements

Acknowledgements

Description :Please review the following questions and acknowledge by selecting 'Yes' or 'No' in the option boxes below. 1. During the performance evaluation period, did your supervisor discuss the agency's commitment to diversity, inclusion and equity? 2. During the performance evaluation period, did your supervisor advise you as to the City's EEO policy, including sections specific to employee rights and responsibilities? 3. During the performance evaluation period, did your supervisor explain your agency's performance evaluation appeals process?

1.Agency Commitment to Diversity Acknowledged No

2.EEO Policy Review Acknowledged No

3.Agency's Appeals Process Acknowledged No

Created By : Template

Section 7 - Employee Comments

Employee Comments: These are of discriminatory nature: 1. Geographical discriminatory 2. Retaliation in whistleblowing 3. Deny my working/Project opportunity which is also discriminatory behavior. The performance evaluation 2021 on me from Kira is not fact-based. I suffered discrimination, retaliation, and other unfair treatment. Kira is not willing to have a session with me. The whole 2021 year, she never had a meeting with me. She delegated her management to me to Fang, Xueliang who has no formal training in management. This irresponsible behavior is power abuse and leads to public resource wasting. Fang, XueLiang ever retaliated against me on 02/02/2022. He made a false statement to fail me. His words are not true. The words in the evaluation report have the nature of prejudice and discrimination. Also, it lacks progressing view of my works. Kira assigned tasks impossible to finish to me which shows her hostility. She ignored my progresses and achievements. She didn't care how much effort I have spent on the work and the value of the results. The whole evaluation is distorted. Kira Lee didn't discuss the agency's commitment to diversity, inclusion, and equity; she didn't advise me as to the City's EEO policy, including sections specific to employee rights and responsibilities; She didn't explain FDNY performance evaluation appeals process. She made the mistake on my sick leave. It is from 03/10/2021 — 10/01/2021. Some of the words in the Performance Evaluation are defamatory. I invite her to use facts and examples to support her statement. She stripped off my work opportunities to apply my strength and leader role opportunity which is part of my title responsibilities. Attached the following files to the reviewer 1. Appeal_PerfEval2021_Linux 2. The Excel file on the issues fixed by me for P-CARD application done by me according to my best knowledge 3. P-CARD application current schema design 4. My schema design of the P-CARD application to reflect design principles in the books 5. Screenshot on P-CARD application done by me 6. User Interface design document by the UI designer

Section 8 - Emp Acceptance of T&S

Employee Signature

Description :Please save your selection by clicking on the below Save Button. (Note that the employee's signature below does not indicate agreement with appraisal-only that it has been communicated to the employee)

- I hereby acknowledge my Tasks and Standards and choose to Sign and Accept

Created By : Template

Section 9 - Emp Acceptance of Perf Ratings**Employee Signature**

Description :Please save your selection by clicking on the 'Acknowledge Review' button below. Note: When selecting 'Sign under Protest', Comment must be provided under 'Employee Comments' section. Although your comments under this section are considered your rebuttal, it does not represent an appeal to the performance evaluation. If you would like to appeal your performance evaluation, you must contact your Human Resources Office. (Note that the employee's signature below does not indicate agreement - only that it has been communicated to the employee.)

- I hereby acknowledge my Performance Evaluation and choose to Sign Under Protest

Created By : Template

Tasks & Standards Electronic Signatures & Dates

Employee Name & Date :	Xuchun Lin	10-MAR-2022 12:06:03
Supervisor Name & Date :	YINGYU LEE	09-MAR-2022 18:33:11
Reviewer Name & Date :	Kamaldeep Deol	10-MAR-2022 12:01:43

Performance Evaluation Electronic Signatures & Dates

Employee Name & Date :	Xuchun Lin	
Supervisor Name & Date :	YINGYU LEE	01-APR-2022 10:58:23
Reviewer Name & Date :	Kamaldeep Deol	04-APR-2022 10:11:23
Acknowledged Name & Date :		

VII. Exhibit G

Performance Document - NYC Standard Performance Doc**Tasks and Standards/Performance Evaluation**

Employee: Xuchun Lin
Civil Service Title: COMPUTER SPECIALIST (SOFTWARE)
Title Level: 04
Civil Service Status: Permanent - Competitive
Business Title: COMPUTER SPECIALIST (SOFTWARE)
Dept ID: 0577520 Bureau of Tech Deve and Syst
Work Location ID: 1617 9 Metrotech Center, Brooklyn N
Status: Completed

Empl ID: 1110201
Title Entry Date: 11/09/2009
Period: 10/24/2018 - 01/24/2019
Supervisor: YINGYU LEE
Document ID: 79187
Document Type: NYC Standard Performance Doc
Template: NYC Non-Mgr Probationary Empl

Section 1 - Instructions**Tasks and Standards**

Description :Tasks and Standards (T&S) provide a clear roadmap on the performance expectations on which you will be evaluated on an ongoing basis. Instructions: 1. Your supervisor will discuss T&S with you at the beginning of the evaluation period. 2. The T&S will be sent to you electronically for acknowledgement. 3. You will have access to review and/or print the final document at any time via Employee Self-Service.

Created By : Template

02/01/2019 2:30PM

Performance Evaluations

Description :The performance evaluation document is used by supervisors to review employee's performance based on the job description, tasks and standards, attendance/punctuality (not including protected leaves such as FMLA leave, childcare leave, workers compensation leave, etc.), and other factors applicable to the job. This enables supervisors and employees to discuss employee's areas of strength, areas for improvement, and identify areas of development for employee's job and professional growth. Instructions: 1. At the end of the evaluation period, your supervisor will discuss and send the performance document to you electronically for review and acknowledgement, at which point you may record your comments on the evaluation form. 2. The performance document will be completed and finalized by your supervisor. 3. You have the ability to submit an appeal based on your agency's appeals process (contact your HR office for additional information). 4. You will have access to review and/or print the final document at any time via Employee Self-Service

Created By : Template

02/01/2019 2:30PM

Section 2 - Probationary Period Review**Probationary Period Review**

Probationary Period: 06 Months
Type of Appointment 1.New Appointment

Created By : Template 02/01/2019 2:30PM

Section 3 - Tasks and Standards

Application Design

Description :a. Create and present realistic prototypes of the application b. Define the logic and flow of an application based on the design specifications c. Review the design with the end users to ensure that it thoroughly meets all requirements.

Supervisor Rating: 3-Good 3.00

Supervisor Comments: Xuchun has been working on the Diamondplate project. He has shown good effort and proven skills in defining the logic and flow of an application based on the design specifications.

Created By : Template 02/01/2019 2:30PM

Last Modified By : YINGYU LEE 02/01/2019 4:00PM

Application programming/building

Description :a. Accurately interpret program specifications and carry out programming tasks in a timely manner b. Able to perform complex programming following best programming standards c. Thoroughly test all aspects of development to ensure that products provided are as bug free d. Make self-available to help with any problems or issues that may arise

Supervisor Rating: 3-Good 3.00

Supervisor Comments: Xuchun has coded, debugged, enhanced, tested and implemented the Diamond plate applications. He made efforts to follow good programming standards and performed technical research on useful tools. He also has shown good programming skills as well as problem solving skills. He consistently delivers programming tasks including application enhancements.

Created By : Template 02/01/2019 2:30PM

Last Modified By : YINGYU LEE 02/01/2019 4:00PM

lead role in web application development and developers

Description :a. Should participate in all phases of the system development life cycle including performing systems analysis, requirement definition, database design, preparation of scope of work, and project plans. b. Should have the ability to prepare technical specifications and perform the necessary programming tasks for applications development. c. Projects will involve the design, development, implementation and support of complex Oracle based applications using Oracle Development tools. d. Well communicate with supervisor/project manager on project status or issues that arise.

Supervisor Rating: 2-Needs Improvement 2.00

Supervisor Comments: While Xuchun has proven his good programming skills and knowledge in web application development life cycle including design, development, implementation and support of the Diamond plate applications, he need to improve his communication skills and also makes more effort in being a team player. He also need to make effort to prove leadership ability to team members by understanding how to drive and direct them effectively in order to meet department need. He need to be more supportive of team members. However, there have been times when Xuchun has failed to effectively communicate with the team.

Created By : Template 02/01/2019 2:30PM

Last Modified By : YINGYU LEE 02/01/2019 4:01PM

Application Maintenance

Description :a. Adequately document all changes and modifications b. Debug/resolve application problems for end users and/or other business units c. Meet with users to clearly identify problems or required modifications or enhancements

Supervisor Rating: 3-Good 3.00

Supervisor Comments: Xuchun debugged and resolved user issue whenever able and available. He maintained and made modifications to the Diamond plate applications as required. He prepared change management requests and application deployment files as needed.

Created By : Template 02/01/2019 2:30PM

Last Modified By : YINGYU LEE 02/01/2019 4:02PM

Task#5

Description :

Supervisor Rating: 0-Unratable 0.00

Supervisor Comments:

Created By : Template

02/01/2019 2:30PM

Task#6

Description :

Supervisor Rating: 0-Unratable

0.00

Supervisor Comments:

Created By : Template

02/01/2019 2:30PM

Tasks and Standards Summary

Supervisor Rating: 3-Good

2.75

Section 4 - Attendance/Punctuality

Attendance/Punctuality

Description :How was Employee's Attendance/Punctuality during the entire Evaluation Period?

Supervisor Rating: Satisfactory

Created By : Template

02/01/2019 2:30PM

Attendance/Punctuality Summary

Supervisor Comments: Xuchun is punctual and reports to work on time.

Section 5 - Other Factors

Other Factors Summary

Supervisor Comments:

Section 6 - Justify Overall Rating

Justify Overall Rating Summary

Supervisor Rating: 3-Good

Supervisor Comments: Xuchun is a hard worker and always motivated to take on new challenge. He has shown great potential in his role as a senior programmer. He displays an ability to learn rapidly and a determination to broaden his skillset. However, he need to focus on improving his communication skills and team building skills to prove the leadership quality.

Section 7 - Probationary Period Review– Overall Recommendation

Probationary Period Review– Overall Recommendation

Recommendation 1.Retention

Created By : Template

02/01/2019 2:30PM

Section 8 - Acknowledgements

Acknowledgements

Description :Please review the following questions and acknowledge by selecting 'Yes' or 'No' in the option boxes below. 1. During the performance evaluation period, did your supervisor discuss the agency's commitment to diversity, inclusion and equity? 2. During the performance evaluation period, did your supervisor advise you as to the City's EEO policy, including sections specific to employee rights and responsibilities?

1.Agency Commitment to Diversity Acknowledged Yes

2.EEO Policy Review Acknowledged Yes

Created By : Template

02/01/2019 2:30PM

Section 9 - Employee Comments

Employee Comments: There are lots of ways to demonstrate lead role skills. One way is to identify the existing problems and improve the process. I discovered the codes need to be enhanced when we switched between different server environments (for example from testing to production) after my analyzing and experiencing on the source codes. I sent out the tentative solution, absorbed team mates opinions and practiced on the production ... I interpreted "failed to effectively communicate with the team" in the evaluation as some misunderstandings among the team members which are from legacy problems partly, from culture differences partly, from different understanding on issues ... I would pay more attention on those issues and improve in the next period.

Section 10 - Emp Acceptance of T&S

Employee Signature

Description :Please save your selection by clicking on the below Save Button. (Note that the employee's signature below does not indicate agreement with appraisal-only that it has been communicated to the employee)

- I hereby acknowledge my Tasks and Standards and choose to Sign and Accept

Created By : Template

02/01/2019 2:30PM

Section 11 - Emp Acceptance of Perf Ratings

Employee Signature

Description :Please save your selection by clicking on the 'Acknowledge Review' button below. (Note that the employee's signature below does not indicate agreement - only that it has been communicated to the employee.)

- I hereby acknowledge my Performance Evaluation and choose to Sign and Accept

Created By : Template

02/01/2019 2:30PM

Tasks & Standards Electronic Signatures & Dates

Employee Name & Date :	Xuchun Lin	06-FEB-2019 14:42:58
Supervisor Name & Date :	YINGYU LEE	
Reviewer Name & Date :	Kamaldeep Deol	

Performance Evaluation Electronic Signatures & Dates

Employee Name & Date :	Xuchun Lin	13-FEB-2019 15:06:29
Supervisor Name & Date :	YINGYU LEE	
Reviewer Name & Date :	Kamaldeep Deol	

VIII. Exhibit H

From: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>
Sent: Wednesday, February 24, 2021 11:19 AM
To: Lee, (Yingyu) Kira (FDNY); Fang, Xueliang (FDNY); Dayter, Kristina (FDNY)
Cc: Chen, Bo (FDNY); Kharchenko, Steven (FDNY)
Subject: RE: Apex request raised by Xuchun

Thanks Kira.

Actually, this task is out of developer scope according to my current understanding. It is the environment related.

Just like I mentioned two months ago:

~~What do I need~~

- ~~1. Need to get a confirmation that our APEX platform support REST data services. (I need the clarification from RELATED STAFFS/ENGINEERS Who built this infrastructure, not Frank)~~
- ~~2. Need a simple sample application the fulfill file upload/download to/from UCM, something like the Proof of Concept.~~

Thanks again,
Xuchun

From: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>
Sent: Wednesday, February 24, 2021 11:12 AM
To: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>; Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>; Dayter, Kristina (FDNY) <Kristina.Dayter@fdny.nyc.gov>
Cc: Chen, Bo (FDNY) <Bo.Chen@fdny.nyc.gov>; Kharchenko, Steven (FDNY) <Steven.Kharchenko@fdny.nyc.gov>
Subject: Re: Apex request raised by Xuchun

Xuchun, if this is required, is the task too difficult for you to take on? Please specify the challenges that you need help with.

Please also clarify what you didn't understand from the env requirements that specified by Frank.

Thanks,
Kira

From: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>
Sent: Wednesday, February 24, 2021 11:02:35 AM
To: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>; Dayter, Kristina (FDNY) <Kristina.Dayter@fdny.nyc.gov>
Cc: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Chen, Bo (FDNY) <Bo.Chen@fdny.nyc.gov>; Kharchenko, Steven (FDNY) <Steven.Kharchenko@fdny.nyc.gov>
Subject: RE: Apex request raised by Xuchun

Frank,

I didn't get your point. I guessed you asked me to create on TEST environment.

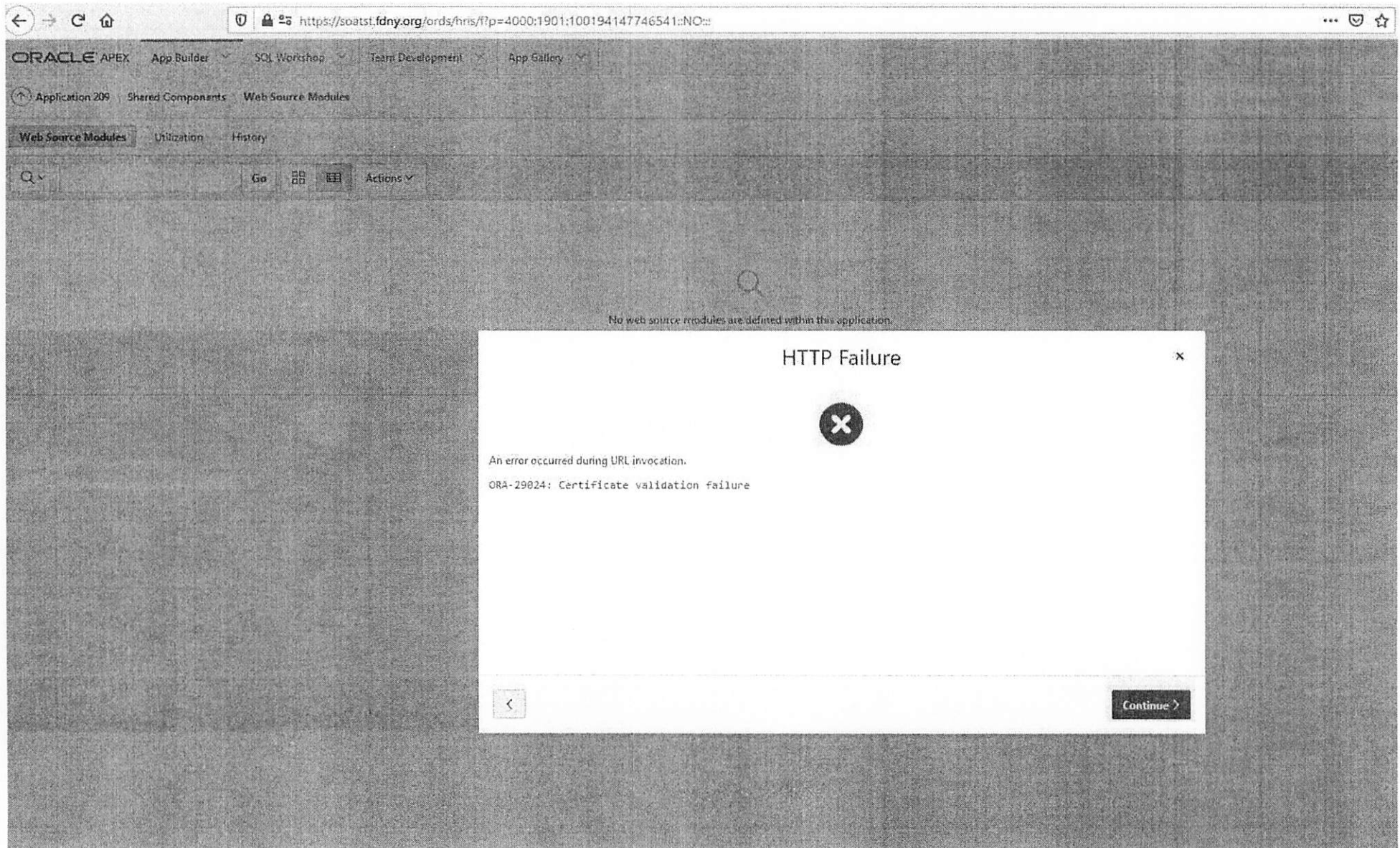
I got the following error on TST.

I mentioned more than two months ago:

~~2. Need a simple sample application the fulfill file upload/download to/from UCM; something like the Proof of Concept.~~

Could you help on that?

Thanks,
Xuchun



From: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>
Sent: Wednesday, February 24, 2021 10:58 AM
To: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>; Dayter, Kristina (FDNY) <Kristina.Dayter@fdny.nyc.gov>
Cc: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Chen, Bo (FDNY) <Bo.Chen@fdny.nyc.gov>; Kharchenko, Steven (FDNY) <Steven.Kharchenko@fdny.nyc.gov>
Subject: Re: Apex request raised by Xuchun

XuChun,

You need to stay within the bounds of the environment. You cannot be creating an application in Dev that invokes APIs in Test.

Thanks
Frank

From: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>
Sent: Wednesday, February 24, 2021 10:42
To: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>; Dayter, Kristina (FDNY) <Kristina.Dayter@fdny.nyc.gov>
Cc: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Chen, Bo (FDNY) <Bo.Chen@fdny.nyc.gov>; Kharchenko, Steven (FDNY) <Steven.Kharchenko@fdny.nyc.gov>
Subject: RE: Apex request raised by Xuchun

Frank,

See the following.

Thanks,
Xuchun

No web source modules are defined within this application.

Create Web Source

General

Web Source Type

- ☐ Simple HTTP
- ☒ Oracle REST Data Services
- ☐ Oracle Cloud Applications (SaaS) REST Service

* Name

UCM_Test1

* URL Endpoint

https://asb-tst.fdyny.org/fdynyintegrations/ucm/resources/ucmrest/download/WCCT_CLU

<

Next >



From: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>

Sent: Wednesday, February 24, 2021 10:08 AM

To: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>; Dayter, Kristina (FDNY) <Kristina.Dayter@fdny.nyc.gov>

Cc: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Chen, Bo (FDNY) <Bo.Chen@fdny.nyc.gov>; Kharchenko, Steven (FDNY) <Steven.Kharchenko@fdny.nyc.gov>

Subject: Re: Apex request raised by Xuchun

Xuchun,

Our Apex platform no issue, it is support.

Thanks
Frank

From: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>
Sent: Wednesday, February 24, 2021 10:03
To: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>; Dayter, Kristina (FDNY) <Kristina.Dayter@fdny.nyc.gov>
Cc: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Chen, Bo (FDNY) <Bo.Chen@fdny.nyc.gov>; Kharchenko, Steven (FDNY) <Steven.Kharchenko@fdny.nyc.gov>
Subject: FW: Apex request raised by Xuchun

Frank,

Any update on this email?

Thanks,
Xuchun

From: Lin, Xuchun (FDNY)
Sent: Monday, December 14, 2020 5:00 PM
To: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>; AppArch <AppArch@fdny.nyc.gov>; Garg, Naresh (FDNY) <Naresh.Garg@fdny.nyc.gov>; Shantharajaiah, Pradeep (FDNY) <Pradeep.Shantharajaiah@fdny.nyc.gov>; Goel, Manu (FDNY) <manu.goel@fdny.nyc.gov>
Cc: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>
Subject: RE: Apex request raised by Xuchun

Thanks Frank.
Any feedback on this issue?
Thanks again,
Xuchun

From: Fang, Xueliang (FDNY) <Xueliang.Fang@fdny.nyc.gov>
Sent: Tuesday, December 08, 2020 12:49 PM
To: AppArch <AppArch@fdny.nyc.gov>; Garg, Naresh (FDNY) <Naresh.Garg@fdny.nyc.gov>; Shantharajaiah, Pradeep (FDNY) <Pradeep.Shantharajaiah@fdny.nyc.gov>; Goel, Manu (FDNY) <manu.goel@fdny.nyc.gov>
Cc: Lee, (Yingyu) Kira (FDNY) <Yingyu.Lee@fdny.nyc.gov>; Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>
Subject: Apex request raised by Xuchun

Hi Pradeep/Manu/AppArch,

Naresh has provided the API call for UCM to Xuchun a few weeks ago.

Xuchun has below request, can anyone provide any feedback to him?

What do I need

- 1. Need to get a confirmation that our APEX platform support REST data services**
- 2. Need a simple sample application the fulfill file upload/download to/from UCM, something like the Proof of Concept.**

Thanks
Frank

From: Lin, Xuchun (FDNY) <Xuchun.Lin@fdny.nyc.gov>
Sent: Monday, December 7, 2020 17:18

IX. Exhibit I

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

TO: Files

REGION: Long Island

FROM: Froebel Chungata
Regional Director

DATE: April 8, 2022

SDHR CASE NO: 10212968-21-E-D-E

Federal Charge No. 16GC102467

SUBJECT: Xuchun Lin v. City of New York, Fire Department

FINAL INVESTIGATION REPORT AND BASIS OF DETERMINATION

I. CASE SUMMARY

This is a verified complaint, filed by complainant, Xuchun Lin, on Mon 7/26/2021. The complainant, who has mental health issues, charges the respondent with unlawful discriminatory practices in relation to employment because of disability.

II. SUMMARY OF INVESTIGATION

Complainant's Position:

The complainant states that he works as a Level IV Computer Software Specialist for the respondent. He states that he argued at a meeting and was threatened with removal. He pointed out an unsafe design and was told he violated the code of conduct. His medical limitations cause him to be seen as condescending and disrespectful. He was told he discredited his colleagues. He was told he could only contact his supervisor during work hours. He called his supervisor to ask for leave because he was ill and he was reprimanded. He feels humiliated.

Respondent's Position:

The respondent denies the allegation of disability discrimination.

The complainant has been employed by the respondent as a Computer Specialist Level IV since July 2018. The complainant has deliberately and repeatedly refused to communicate in a professional manner and has been abrasive in his communications with co-workers since the beginning of his employment. He even told his supervisor that his approach is "no fighting, no understanding."

The respondent's management team has tried to coach the complainant into being a more productive team member. His supervisors have held conferences with him and explained in writing how destructive his behavior is to the team and tried to assist him in improving his performance.

The complainant admits he openly argues with management. He now attributes his interpersonal abrasiveness to medical issues that he had not disclosed to the respondent. The complainant's diagnosis and documentation does not excuse his continued antagonism and refusal to accept appropriate supervision to meet the essential functions of his position. Despite his poor performance, he has yet to suffer any effect on his wage, title, benefits or responsibilities.

The complainant received an overall rating of Good on his six-month evaluation in February 2019 which included both positive comments and areas of improvement. Part of the areas to improve included better communication and being more supportive. The complainant did not accept this feedback and emailed Director Lee stating things like "shouting [can be] useful tactics" and "no fighting, no understanding."

The complainant's interactions became increasingly disruptive and his performance deteriorated over the ensuing months. He was therefore counseled verbally and directed to be respectful and told that combative speech was not acceptable in the workplace.

On June 18, 2020, a team meeting led by Director Lee was held about an upcoming project. The complainant constantly interrupted Director Lee during this meeting. He was argumentative and angrily raised his voice and stated that they were doing things all wrong. Director Lee warned him that if he continued with his behavior he would be removed, and he finally quieted down.

On October 29, 2020, the complainant was again counseled via email to respect his chain of command and be respectful.

On November 5, 2020, the complainant was counseled again, and a report was issued on the matter. No adverse action was taken. The complainant requested to take the rest of the day off and it was granted. He then asked for the next day off, and that too was granted. He was not disciplined for calling his supervisor, but he was reminded not to call outside of normal work hours, especially if they have not authorized him to call their personal cell phone.

After returning to work on November 16, 2020, the complainant apologized for his behavior that necessitated the November 5, 2020 conference. He then disclosed for the first time that he has mental health issues. He asked that the respondent take this into account, and he was then given a reasonable accommodation form to fill out. On the form he requested "more empathetic understanding and mutual support." The EEO Office requested more information as it was not clear what accommodation he wanted. He ultimately told the EEO Office that he wanted his supervisor's communications to be in writing when they give him instructions. This request was granted.

The complainant's conduct continues to be disruptive. He is not properly performing the essential functions of his job. He continues to disrespect team members, diminish their efforts,

and challenges Director Lee's assignments.

The complainant has not suffered any effect on his wage, title, benefits or responsibilities. He is still employed as a Computer Specialist Level 4. He even received a salary increase in October 2019.

The respondent only learned of the complainant's disability on November 16, 2020. All of the allegations in the complaint pre-date November 16, 2020, therefore the respondent could not have discriminated against him based on a disability it was unaware of. The complainant was granted his accommodation request that his supervisors communicate in writing.

Investigator's Observations:

The complainant submitted a rebuttal and additional information that were of no import.

There was a complainant conference via telephone on April 8, 2022. There was nothing of substance obtained from the conference. He is still employed in the same position.

Submitted by: _____

J. C. (FC)
Jacqueline Cigliano
Human Rights Specialist I

III. BASIS FOR DETERMINATION

There is a lack of evidence in support of the complainant's allegations based on disability discrimination.

The complainant (who has mental health issues) has been employed by the respondent as a Computer Specialist Level IV since July 2018. The respondent counseled him a few times between September 30, 2019 and November 5, 2020. He brought this action alleging the respondent treated him unfairly because of his disability.

The complainant failed to establish a prima facie complaint of discrimination as he has not shown he has suffered an adverse employment action. He remains employed and has experienced no effect to his title, salary or benefits.

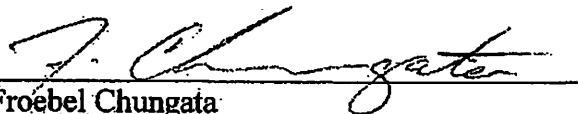
In addition, there is no indication in the record that the respondent knew of the complainant's mental health issues prior to counseling him with regard to his outbursts. The record supports that the complainant first notified the respondent about his mental health issues on November 16, 2020. Therefore, the respondent's counseling of the complainant could not have been motivated by discriminatory animus.

Furthermore, the complainant's request for a reasonable accommodation made after he disclosed his mental health issues, was granted.

The record does not support a finding of probable cause in this case.

IV. DETERMINATION

Based on the foregoing, I find No Probable Cause to support the allegations of the complaint.


Froebel Chungata
Regional Director



U.S. Equal Employment Opportunity Commission
Notification & Acknowledgement of Dual-Filed Charge

(This Notice replaces EEOC FORM 212-A)

04/01/2022

EEOC Number: 16G-2021-02467

FEPA Number: 10212968 - 1D

This is notice that a charge of employment discrimination, Xuchun Lin v. City of New York, Fire Department was initially received by New York State Division Of Human Rights on 07/26/2021 and will be dual-filed with New York District Office.

Pursuant to the worksharing agreement, the New York State Division Of Human Rights intends to Investigate Charge.

The New York District Office acknowledges receipt of the referenced charge, Xuchun Lin v. City of New York, Fire Department, and intends to Defer Investigation.

Issued by:
New York State Division Of Human Rights

Issued on:
04/01/2022

Acknowledged by:
New York District Office

Acknowledged on:
04/01/2022

Additional Exhibit

To: Lin, Xuchun (FDNY) <~~Xuchun.Lin@fdny.nyc.gov~~>
Cc: PCard Support <PCardSupport@fdny.nyc.gov>, Deol, Kamaldeep (FDNY) <Kamaldeep.Deol@fdny.nyc.gov>
Subject: FW: Proposal to rewrite P-CARD application

Xuchun,

The description of the PCARD app is not accurate – this is only for purchase logging, not for procurement activities recording, nor procurement approval. Please double check with BA to correct your understanding.

P-CARD application functions:

P-CARD application is to record the FDNY procurement activities, approve the request, generate related reports, and query related information. Procurement information includes item, logs, and comments; works flows need to status to express. There are four major rules except admin for this application: clerk, holder, approver, fiscal. This application has no connection with other procurement applications in city like Vendex and PASSPort.

The backend change is not in scope of this effort. This is existing application that we prefer not to make any changes in the backend design unless there is business requirement or a major issue is found. Please talk to Steve to request any backend functionality you will need in the front end coding.

Timeline – I need to understand why 6 months is necessary for this effort. All UI screens will be provided for APEX coding. We need to deliver in a timeframe a lot less than 6 months for this project.

Thanks,

Kira Lee | Deputy Director, Application Development
FDNY - Bureau of Technology Development & Systems (BTDS)
9 MetroTech Center, 6EG, Brooklyn, NY 11201
O: (718) 999-0265 | E: yingyu.lee@fdny.nyc.gov

To: Lin, Xuchun (FDNY) <~~Xuchun.Lin@fdny.nyc.gov~~>; Deol, Kamaldeep (FDNY) <Kamaldeep.Deol@fdny.nyc.gov>
Cc: Fang, Xuellang (FDNY) <Xuellang.Fang@fdny.nyc.gov>; Kharchenko, Steven (FDNY) <Steven.Kharchenko@fdny.nyc.gov>
Subject: Re: Daily task update (07/14/2020)

I need to understand what's the difference in the new design. As I said it earlier, the project scope is not to make any backend changes unless totally necessary. It is not in the requirement and scope to redesign the backend. This has been clearly communicated to you before. Please make sure you understand requirement and follow them.

It's not ~~possible~~ to have the project delivered in December. Again, I need to understand the need. And we don't need to rewrite BI reports...that's why we try not to change backend design.

Again, it's important for you to understand and follow project requirements and scope that's been decided.

Thanks,
Kira